SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1485-22

LEGACY MORTGAGE ASSET TRUST 2019-RPL3,

Plaintiff-Respondent,

v.

MOORISH SCIENCE TEMPLE OF AMERICA, NADIA HENDRICKS, and STATE OF NEW JERSEY,

Defendants,

and

COLIN HYLTON,

Defendant-Appellant.

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Submitted May 13, 2024 – Decided May 29, 2024

Before Judges Mawla and Vinci.

On appeal from the Superior Court of New Jersey, Chancery Division, Union County, Docket No. F-003059-21.

Colin Hylton, appellant pro se.

Fein, Such, Kahn & Shepard, PC, attorneys for respondent (Michael S. Hanusek, on the brief).

PER CURIAM

In this residential mortgage foreclosure action, appellant Colin Hylton appeals from the October 27, 2022 order entering final judgment in favor of respondent Legacy Mortgage Asset Trust 2019-RPL3 ("Legacy") and the December 2, 2022 order denying his motion to vacate final judgment. We affirm.

On March 22, 2006, appellant executed a note and mortgage (the "Mortgage") in the amount of $315,000 in favor of MortgageIT, Inc. ("MortgageIT"), secured by a property located on Pine Avenue in Union (the "Property"). The Mortgage was delivered to Mortgage Electronic Registration Systems, Inc. ("Mortgage Electronic"), as nominee for MortgageIT, and recorded on April 4. On February 15, 2012, Mortgage Electronic assigned the Mortgage to Bank of America, N.A. ("Bank of America"). The assignment was recorded on February 23. On May 9, 2013, Bank of America assigned the Mortgage to Nationstar Mortgage, LLC ("Nationstar"). The assignment was recorded on July 2.

By deed dated January 23, 2015, appellant conveyed his interest in the Property to Moorish Science Temple of America. The deed was recorded on February 13.

On January 17, 2017, Nationstar assigned the Mortgage to MTGLQ Investors, L.P. ("MTGLQ"). The assignment was recorded on February 10.

On November 1, 2019, appellant defaulted on his obligations under the Mortgage. On January 28, 2021, MTGLQ assigned the Mortgage to Legacy. The assignment was recorded on March 22. On June 9, Legacy filed this foreclosure action.

After appellant filed a contesting answer, Legacy moved for summary judgment. Appellant also moved for summary judgment. The court granted Legacy's motion for summary judgment and denied appellant's motion. The court struck appellant's answer, entered default, and returned the action to the Office of Foreclosure to proceed as an uncontested matter.

Appellant subsequently moved to set aside summary judgment pursuant to Rule 4:50-1(a), which was denied. On August 2, 2022, Legacy moved for the entry of final judgment in the Office of Foreclosure. In response, appellant filed a motion to dispute the sufficiency of Legacy's proof of amount due and the matter was returned to the Chancery Division. On September 9, the court

entered an order denying appellant's motion, supported by a written statement of reasons, and returned the matter to the Office of Foreclosure to enter final judgment. On October 27, final judgment was entered in favor of Legacy.

Appellant moved to vacate the final judgment and requested oral argument pursuant to Rule 1:6-2(d). On December 2, 2022, the court entered an order denying appellant's motion, supported by a written statement of reasons, without hearing oral argument. The court found appellant failed to establish any basis for relief under Rule 4:50-1 because appellant's arguments were previously raised and rejected, and he did not identify any mistake, newly discovered evidence, or fraud that would support his claim for relief from final judgment.

On appeal, appellant argues the December 2, 2022 order should be vacated because the court did not hear oral argument before deciding his motion to vacate final judgment. He also contends final judgment should be vacated because Legacy filed a certification and schedule of amount due rather than an affidavit in violation of Rule 4:64-2(d).[1] Appellant also argues he is entitled to a "written statement [of] reason[s] from [Legacy or the court] concerning the

[1] Appellant's contention that Legacy violated the Supreme Court's June 9, 2011 order adopting amendments to Rule 4:64-2 lacks merit. That order simply adopted the rule amendments and made certain amendments applicable to actions pending on June 9, 2011. The substantive amendments are set forth in the rule, not the June 9, 2011 order.

erroneous granting of authority to execute and acknowledge documents, certifications or affidavits necessary" to prosecute this action.

We review an order granting or denying a motion to vacate a final judgment of foreclosure for an abuse of discretion. United States v. Scurry, 193 N.J. 492, 502-03 (2008). An abuse of discretion arises "when a decision is 'made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.'" U.S. Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449, 467 (2012) (quoting Iliadis v. Wal-Mart Stores, Inc., 191 N.J. 88, 123 (2007)).

Rule 4:50-1 provides six grounds for vacating a final judgment.[2] Generally, courts should grant relief under Rule 4:50-1 "sparingly, [and only] in exceptional situations." Badalamenti v. Simpkiss, 422 N.J. Super. 86, 103 (App. Div. 2011) (alteration in original) (quoting Hous. Auth. of Morristown v. Little, 135 N.J. 274, 289 (1994)). Relief under Rule 4:50-1 must "reconcile the strong interests in finality of judgments and judicial efficiency with the equitable

[2] To establish a Rule 4:50-1 claim, a litigant must allege at least one of these six grounds for vacating a final judgment: "(a) mistake, inadvertence, surprise, or excusable neglect; (b) newly discovered evidence[;] . . . (c) fraud[,] . . . misrepresentation, or other misconduct of an adverse party; (d) the judgment or order is void; (e) the judgment or order has been satisfied, released or discharged . . .; or (f) any other reason justifying relief . . . ." R. 4:50-1.

notion that courts should have authority to avoid an unjust result in any given case." LVNV Funding, LLC v. Deangelo, 464 N.J. Super. 103, 109 (App. Div. 2020) (quoting Manning Eng'g, Inc. v. Hudson Cnty. Park Comm'n, 74 N.J. 113, 120 (1977)).

We affirm substantially for the reasons set forth in the court's December 2, 2022 written opinion. We add the following comments.

Appellant's argument that Legacy violated Rule 4:64-2(d) by filing a certification rather than an affidavit in support of its motion to enter final judgment is not persuasive. Rule 4:64-2(d) provides, in relevant part, "counsel shall annex to every motion to enter judgment in a residential mortgage foreclosure action an affidavit of diligent inquiry . . . ." Rule 1:4-4(b) provides:

> In lieu of the affidavit . . . required by these rules, the affiant may submit the following certification which shall be dated and immediately precede the affiant's signature: "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment."
>
> [(Emphasis added).]

In State v. Kent, we interpreted Rule 1:4-4(b) and concluded a certification "with language certifying that its contents are true and with . . . recognition that any 'willfully false' statements may subject [the affiant] to

punishment, is the functional equivalent of an affidavit in New Jersey practice." 391 N.J. Super. 352, 372 (App. Div. 2007). The certification Legacy filed in support of its motion to enter final judgment fully complies with Rule 1:4-4(b) and is the functional equivalent of an affidavit as contemplated by Rule 4:64-2(d).

We are satisfied the court's refusal to hear oral argument does not require remand under the facts of this case. Although a request for oral argument should generally be granted in light of the clear mandate of Rule 1:6-2(d), "a request for oral argument respecting a substantive motion may be denied" and "the reason for the denial of the request . . . should itself be set forth in the record." Clarksboro, LLC v. Kronenberg, 459 N.J. Super. 217, 221 (App. Div. 2019) (quoting Raspantini v. Arocho, 364 N.J. Super. 528, 531-32 (App. Div. 2003)).

In this case, the court did not state its reasons for refusing appellant's request for oral argument. However, because we are convinced appellant's arguments in the trial court lacked merit and the court arrived at the proper result, the court's refusal to hear oral argument does not warrant our intervention. See Finderne Heights Condo. Ass'n, Inc. v. Rabinowitz, 390 N.J. Super. 154, 165-66 (App. Div. 2007) ("[A]lthough we see a lack of justification for the trial court's failure to have oral argument, given the record in this matter,

we find no prejudice under the circumstances."); Triffin v. Am. Int'l Grp., Inc., 372 N.J. Super. 517, 524 (App. Div. 2004).

To the extent we have not otherwise addressed appellant's arguments, they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.